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FAULDING/001 CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Gregory P. Handreck et al.
Application No. : Not yet assigned Confirmation No.: Not yet assigned
Filed : November 6, 2002
For : PAMIDRONATE SOLUTION
Group Art Unit : Not yet assigned
Examiner : Not yet assigned

New York, New York
January 17, 2003

Hon. Commissioner for Patents
P.O. Box 2327
Arlington, Virginia 22202

Attn: Office of Petitions

PETITION UNDER 37 C.F.R. § 1.181

Sir:

Applicants hereby petition the Commissioner to accord an application number and a filing date of November 6, 2002 to the above-identified application.

Statement of the Facts

As stated in the supporting Declarations filed concurrently herewith, a Rule 53(b) continuation application

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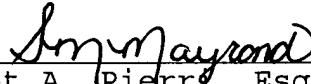
bearing the docket number FAULDING/001 CON was filed with the United States Patent and Trademark Office on November 6, 2002. Applicants have received a return receipt postcard, which was date stamped by the United States Patent and Trademark Office (see Exhibit B of the Declaration of Lillian Garcia), and a Notice of Acceptance of Power of Attorney (see Exhibit A of the Declaration of Margaret A. Pierri). Both the postcard receipt and a Revocation and New Power of Attorney were included in an envelope containing the Rule 53(b) continuation application and accompanying papers as deposited in Express Mail on November 6, 2002 (see Declaration of Lillian Garcia). Accordingly, applicants believe that the envelope containing the FAULDING/001 CON filing was transmitted to and received by the United States Patent and Trademark Office.

In a telephone conversation on December 6, 2002, Ms. Deshawn Durham of the United States Patent and Trademark Office informed Ms. Garcia of Fish & Neave that the envelope containing the FAULDING/001 CON application apparently had been lost within the United States Patent and Trademark Office.

By virtue of this Petition, applicants request that the FAULDING/001 CON application be accorded an application

serial number and a filing date of November 6, 2002. A complete copy of the Rule 53(b) continuation application filing is filed concurrently herewith as Exhibit A to the Declaration of Lillian Garcia.

Respectfully submitted,



Margaret A. Pierri, Esq.
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Attorney for Applicants
Shawn-Marie Mayrand
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DECLARATION OF LILLIAN GARCIA

I, LILLIAN GARCIA, hereby declare that:

1. I am a Docket Clerk in the Patent Department of Fish & Neave, 1251 Avenue of the Americas, New York, New York 10020. My duties include processing and mailing documents which are to be filed with the United States Patent and Trademark Office.

2. The Fish & Neave procedures used by clerks in the Patent Department of Fish & Neave to process continuation

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applications including Rule 53(b) Continuation Applications, encompass the following steps:

a. The continuation application is page-checked to ensure that: (i) each page of the specification and each sheet of drawing is numbered consecutively, and (ii) the number of pages of application in the specification and the number of sheets of drawings match the numbers entered on: (a) the Transmittal Letter for a Rule 53(b) Continuation Patent Application and (b) the return receipt postcard.

b. The application is checked to ensure the Express Mail number printed on the first page of the continuation application matches the Express Mail number of the Express Mail label.

c. The Express Mail Certification is signed and placed inside an envelope with the specification, drawings, Continuation Application for Patent Cover Sheet, postcard, Print EFS sheet and any other associated documents, as listed in the Express Mail Certification.

d. The envelope is sealed, and an entry is made in an outgoing log kept in the Patent Department noting the Express Mail number, the internal docket number of the continuation application, and the date and time of mailing.

e. The sealed envelope is then given to the mail room by the Patent Department for delivery to the United States Postal Service.

f. After depositing the application with the United States Postal Service, the Mail Room then completes in an Express Mail Order Slip noting the date, time and place of mailing.

3. In the case of continuation application bearing docket number FAULDING/001 CON, I distinctly remember following the above procedures for processing the Rule 53(b) Continuation Patent Application filed with the United States Patent and Trademark Office on November 6, 2002.

4. In the instant case, I followed the above procedure and caused a continuation application (i.e., FAULDING/001 CON), comprising twelve (12) of the specification -- including ten claims (2 pages) and an abstract (1 page) -- three (3) pages of a Combination Declaration and Power, two (2) copies of a combination Express Mail Certification and Transmittal Letter for Rule 53(b) Continuation Patent Application, which authorized payment of the \$740.00 filing fee, two (2) copies of a Petition Under 37 C.F.R. §1.136(a) for Extension of Time, a check in the amount of \$920.00 for the

Extension of Time, a Revocation and New Power of Attorney, a Print EFS, a copy of PCT patent application WO 00/34293, and a return receipt postcard to be filed with the United States Patent and Trademark Office, via deposit with the United States Postal Service - Express Mail certification number EK170571149US (see first page of Transmittal Letter included in Exhibit A).

5. Attached to this declaration are true and complete copies of the documents included with the FAULDING/001 Rule 53(b) Continuation Patent Application dated November 6, 2002 (Exhibit A) - all of which were obtained from the Fish & Neave file for the application, which is maintained by the Fish & Neave Patent Department. Also attached are a true copy of the application's acknowledgment of Receipt Card (Exhibit B), i.e., the postcard as stamped by the United States Patent and Trademark Office and returned to Fish & Neave and a true copy of the Notice of Acceptance of Power of Attorney - both obtained from the file maintained by the Fish & Neave Patent Department.

6. The undersigned declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to

be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or of any patent issuing thereon.



Lillian Garcia

Signed this 17 day
of January, 2003 at
New York, New York



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Hon. Commissioner for Patents
P.O. Box 2327
Arlington, Virginia 22202

DECLARATION OF MARGARET A. PIERRI

I, MARGARET A. PIERRI, declare that:

1. I am an attorney in the law firm of Fish & Neave, 1251 Avenue of the Americas, New York, New York 10020. My duties include preparing and reviewing patent applications that are to be filed with the United States Patent and Trademark Office. I make this declaration in support of

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applicants' Petition Under 37 C.F.R. §1.181, filed concurrently herewith.

2. It is my practice when preparing or reviewing a patent application for filing in the United States Patent and Trademark Office to count the number of pages of the specification, claims and drawings, to confirm completeness and consecutive numbering and in order to prepare or revise a return receipt postcard and Transmittal Letter. I then confirm that the number of pages of the application indicated on the Transmittal Letter and number of pages indicated on the postcard are in agreement with each other, and are in agreement with the total number of pages prepared for filing. Once I have confirmed that all papers to be included in the patent application filing are present, I confirm that the appropriate payment for the filing fee has been provided. Following confirmation that the correct number of pages are in hand and payment is provided for the filing, I deliver or have delivered to a docketing clerk in the Patent Department at Fish & Neave the documents and return receipt postcard for filing.

3. In the instant case, I followed the above procedure for a continuation application (i.e., FAULDING/001 CON), comprising twelve pages (12) of the specification --

including ten claims (2 pages) and an abstract (1 page) -- three (3) pages of a Combination Declaration and Power, two (2) copies of a combination Express Mail Certification and Transmittal Letter for Rule 53(b) Continuation Patent Application, which authorized payment of the \$740.00 filing fee, two (2) copies of a Petition Under 37 C.F.R. §1.136(a) for Extension of Time, a check in the amount of \$920.00 for the Extension of Time, a Revocation and New Power of Attorney, a Print EFS, a copy of PCT patent application WO 00/34293, and a return receipt postcard to be filed with the United States Patent and Trademark Office.

4. I recall that I delivered or caused to be delivered all of the above-stated documents to Ms. Lillian Garcia, a docketing clerk in the Fish & Neave Patent Department on November 6, 2002, for filing as the FAULDING/001 CON Rule 53(b) Continuation Application.

5. Upon inspection of the Fish & Neave file copy of the FAULDING/001 CON application, I observed that copies of all of the above-stated documents are present therein. The Fish & Neave file also includes the return receipt postcard indicating, by virtue of a date stamp, that the FAULDING/001 CON application was received at the United States Patent and

Trademark Office on November 6, 2002 (see Exhibit B of the Declaration of Lillian Garcia, filed concurrently herewith). As further confirmation of receipt of the FAULDING/001 CON application by the United States Patent and Trademark Office, Exhibit A hereto represents a true copy of a Notice of Acceptance of Power of Attorney, which was sent to my attention and confirms the receipt of the Power of Attorney filed on November 6, 2002. As stated above, that Power of Attorney was enclosed with the FAULDING/001 CON application papers, which I delivered or caused to be delivered to the Fish & Neave Patent Department for filing in the United States Patent and Trademark Office on November 6, 2002.

6. The undersigned declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or of any patent issuing thereon.


Margaret A. Pierri
Registration No. 30,709

Signed this 17th day
of January, 2003 at
New York, New York